

§ 14.615

from which it was removed, the employee will be reinstated as the defendant, and the United States will be dismissed from the suit. Where the employee has been reinstated as the defendant under such circumstances, in order to protect any rights which he or she may have under 38 U.S.C. 7316(e), he or she shall immediately notify the General Counsel, through the local Regional Counsel. Through the Regional Counsel, the General Counsel will call the employee's attention to the discretionary conditional indemnification provisions of section 7316(e).

(e) Under the authority of 38 U.S.C. 7316(e), the Secretary of Veterans Affairs may pay for monetary damages sustained by or assessed against an individual (or his or her estate) described in paragraph (a)(2) of this section, as the result of any suit instituted against such individual which is not cognizable under the provisions of 28 U.S.C. 2671-2680 because the individual was assigned to a foreign country, the said individual was detailed to a State or political division thereof, or the cause of action was specifically excluded under the provisions of 28 U.S.C. 2680(h); *Provided*, That the amount of damages sustained is reasonable when compared with similar cases, litigated or settled, and the United States was given a reasonable opportunity to defend such individual and to participate in settlement negotiations.

(Authority: 28 U.S.C. 2671-2680; 38 U.S.C. 512, 515, 7316; 28 CFR part 14, appendix to part 14)

[42 FR 41417, Aug. 17, 1977. Redesignated and amended at 61 FR 27784, June 3, 1996; 64 FR 47112, Aug. 30, 1999]

ADMINISTRATIVE SETTLEMENT OF TORT CLAIMS ARISING IN FOREIGN COUNTRIES

§ 14.615 General.

(a) *Authority*. Section 515(b), title 38 U.S.C., provides that the Secretary of Veterans Affairs may pay tort claims, in the manner authorized in the first paragraph of section 2672 of title 28 U.S.C., when such claims arise in foreign countries in connection with Department of Veterans Affairs operations abroad.

(b) *Action by claimant*. Claims for property loss or damage may be filed by the owner of the property or his or

38 CFR Ch. I (7-1-15 Edition)

her duly authorized agent or legal representative. If the property was insured and the insurer is subrogated, in whole or in part, and if both the owner and the insurer desire to file a claim for their respective losses they should join in one claim. Claims for personal injury may be filed by the injured person or his or her agent or legal representative. Claims for death may be filed by the personal representative of the decedent or any other legally qualified person. When filed by an agent or legal representative, the claim must show the title or capacity of the person representing the claimant and be accompanied by evidence of the appointment of such person as agent, legal representative, executor/executrix, administrator/administratrix, guardian, or other fiduciary.

(c) *Time for filing*. A claim may not be allowed under 38 U.S.C. 515(b) unless it is presented to the Secretary or his or her designee within 2 years after the claim accrues.

(Authority: 28 U.S.C. 2671-2680; 38 U.S.C. 512, 515, 7316; 28 CFR part 14, appendix to part 14)

[38 FR 5473, Mar. 1, 1973, as amended at 42 FR 41417, Aug. 17, 1977; 64 FR 47112, Aug. 30, 1999]

§ 14.616 Form and place of filing claim.

(a) *Form of claim*. Claims arising under 38 U.S.C. 515(b) will be prepared in the form of a sworn statement and submitted in duplicate. The original copy of the claim will be sworn to or affirmed before an official with authority to administer oaths or affirmations and will contain the following information, at least:

(1) The name and address of claimant;

(2) The amount claimed for injury or death, and for property loss or damage;

(3) If property was lost or damaged, the amount paid or payable by the insurer together with the name of the insurer;

(4) A detailed statement of the facts and circumstances giving rise to the claim, including the time, place, and date of the accident or incident;

(5) If property was involved, a description of the property and the nature and extent of the damage and the cost of repair or replacement based upon at least two impartial estimates;